

**EXHIBIT 1**

**DECLARATION OF MICHAEL ROWE**

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
A Limited Liability Partnership  
2 Including Professional Corporations  
BRYAN D. DALY, Cal. Bar No. 117901  
3 bdaly@sheppardmullin.com  
CHARLES L. KREINDLER, Cal. Bar No. 119933  
4 ckreindler@sheppardmullin.com  
BARBARA E. TAYLOR, Cal. Bar No. 166374  
5 btaylor@sheppardmullin.com  
333 South Hope Street, 43<sup>rd</sup> Floor  
6 Los Angeles, California 90071-1422  
Telephone: 213.620.1780  
7 Facsimile: 213.620.1398

8 Attorneys for Individual Counterclaim  
Defendants Michael Omid, M.D. and  
9 Julian Omid

10 UNITED STATES DISTRICT COURT

11 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

12 ALMONT AMBULATORY  
13 SURGERY CENTER, LLC, a  
California limited liability company, et  
14 al.,

15 Plaintiffs,

16 v.

17 UNITEDHEALTH GROUP, INC.;  
UNITED HEALTHCARE SERVICES,  
18 INC., UNITED HEALTHCARE  
INSURANCE COMPANY;  
OPTUMINSIGHT, INC., and DOES 1  
19 through 20,

20 Defendants.

21 UNITED HEALTHCARE SERVICES,  
INC., UNITED HEALTHCARE  
22 INSURANCE COMPANY;  
OPTUMINSIGHT, INC.,

23 Counterclaim Plaintiffs,

24 v.

25 ALMONT AMBULATORY  
SURGERY CENTER, LLC, a  
26 California limited liability company; et  
al.,

27 Counterclaim Defendants.  
28

Case No. 2:14-cv-03053-MWF(VBKx)  
Honorable Michael W. Fitzgerald

**MICHAEL OMIDI, M.D. AND  
JULIAN OMIDI'S AMENDED  
RESPONSE TO  
DEFENDANTS'/COUNTERCLAIM  
PLAINTIFFS' FIRST SET OF  
INTERROGATORIES TO  
PLAINTIFFS/COUNTERCLAIM  
DEFENDANTS**

Complaint Filed: March 21, 2014

Trial Date: None Set

1 PROPOUNDING PARTY: DEFENDANTS/COUNTERCLAIM PLAINTIFFS  
2 ("UNITED")  
3 RESPONDING PARTY: INDIVIDUAL COUNTERCLAIM DEFENDANTS  
4 MICHAEL OMIDI, M.D. and JULIAN OMIDI  
5 SET NO.: ONE

6 **AMENDED RESPONSES TO INTERROGATORIES**

7 **PRELIMINARY STATEMENT**

8 In light of the Court's ruling on Counterclaim Defendants' Motions to  
9 Dismiss the First Amended Counterclaim, filed on February 12, 2015, Individual  
10 Counterclaim Defendants Michael Omidi, M.D. and Julian Omidi hereby amend  
11 their Response to United's First Set of Interrogatories to Plaintiffs/Counterclaim  
12 Defendants.

13 Individual Counterclaim Defendants hereby incorporate all General  
14 Objections and Specific Objections of Plaintiffs and Counter-Defendants Almont  
15 Ambulatory Surgery Center, LLC, et al., i.e., the "Providers," as modified by  
16 conferences of counsel.

17 **INTERROGATORY NO. 1:**

18 Identify the amount you charged to any patient who obtained services under  
19 CPT codes 43239, 43770, and 47562 between January 1, 2005 and the present,  
20 including any patient who paid for such services without financial assistance from  
21 any health care benefit plan, insurer, or managed care organization.

22 **AMENDED RESPONSE TO INTERROGATORY NO. 1:**

23 Individual Counterclaim Defendants object to this Interrogatory on the ground  
24 that it seeks information that is not within their possession, custody, or control in  
25 their individual capacities. In the event such information is determined to be within  
26 the possession, custody, or control of Individual Counterclaim Defendants,  
27 Individual Counterclaim Defendants specifically incorporate the Providers'  
28 objections to this Interrogatory, as modified by conferences of counsel. United will

1 obtain all business information to which it is entitled from the Providers. Finally, at  
2 this time, and on the advice of counsel, Individual Counterclaim Defendants assert  
3 their Fifth Amendment rights and elect not to further respond to this Interrogatory.

4 **INTERROGATORY NO. 2:**

5 Identify all health care professionals employed by, contracting with, or  
6 operating under the control of any Plaintiff or Counterclaim Defendant who  
7 provided any health care service to all Exhibit A Patients, including but not limited  
8 to surgeons, physicians, doctors, nurses, psychologists, psychiatrists, therapists,  
9 nutritionists, social workers, and laboratory specialists.

10 **AMENDED RESPONSE TO INTERROGATORY NO. 2:**

11 Individual Counterclaim Defendants object to this Interrogatory on the ground  
12 that it seeks information that is not within their possession, custody, or control in  
13 their individual capacities. In the event such information is determined to be within  
14 the possession, custody, or control of Individual Counterclaim Defendants,  
15 Individual Counterclaim Defendants specifically incorporate the Providers'  
16 objections to this Interrogatory, as modified by conferences of counsel. United will  
17 obtain all business information to which it is entitled from the Providers. Finally, at  
18 this time, and on the advice of counsel, assert their Fifth Amendment rights and  
19 elect not to further respond to this Interrogatory.

20 **INTERROGATORY NO. 3:**

21 Identify all individuals who prepared, processed, evaluated, or administered  
22 any of the Claims submitted to United for all Exhibit A Patients.

23 **AMENDED RESPONSE TO INTERROGATORY NO. 3:**

24 Individual Counterclaim Defendants object to this Interrogatory on the ground  
25 that it seeks information that is not within their possession, custody, or control in  
26 their individual capacities. In the event such information is determined to be within  
27 the possession, custody, or control of Individual Counterclaim Defendants,  
28 Individual Counterclaim Defendants specifically incorporate the Providers'

1 objections to this Interrogatory, as modified by conferences of counsel. United will  
2 obtain all business information to which it is entitled from the Providers. Finally, at  
3 this time, and on the advice of counsel, assert their Fifth Amendment rights and  
4 elect not to further respond to this Interrogatory.

5 **INTERROGATORY NO. 4:**

6 Identify all bank accounts, including the accounts referenced in the First  
7 Amended Counterclaim, into which funds related to any United Member was  
8 deposited, by the name of the bank or financial institution, account number, and the  
9 name of the account holder and all signatories.

10 **AMENDED RESPONSE TO INTERROGATORY NO. 4:**

11 Individual Counterclaim Defendants object to this Interrogatory on the ground  
12 that it seeks information that is not within their possession, custody, or control in  
13 their individual capacities. In the event such information is determined to be within  
14 the possession, custody, or control of Individual Counterclaim Defendants,  
15 Individual Counterclaim Defendants specifically incorporate the Providers'  
16 objections to this Interrogatory, as modified by conferences of counsel. United will  
17 obtain all business information to which it is entitled from the Providers. Finally, at  
18 this time, and on the advice of counsel, assert their Fifth Amendment rights and  
19 elect not to further respond to this Interrogatory.

20 **INTERROGATORY NO. 5:**

21 Identify all mailing addresses, business addresses, practice addresses, or other  
22 addresses used by each Plaintiff or Counterclaim Defendant between January 1,  
23 2005 to the present. This includes all private or rented mail boxes, post office  
24 boxes, physical addresses, office addresses, work addresses, and home addresses,  
25 regardless of whether business was conducted on site.

26 **AMENDED RESPONSE TO INTERROGATORY NO. 5:**

27 Individual Counterclaim Defendants object to this Interrogatory on the ground  
28 that it seeks information that is not within their possession, custody, or control in



1 their individual capacities. In the event such information is determined to be within  
2 the possession, custody, or control of Individual Counterclaim Defendants,  
3 Individual Counterclaim Defendants specifically incorporate the Providers'  
4 objections to this Interrogatory, as modified by conferences of counsel. United will  
5 obtain all business information to which it is entitled from the Providers. Finally, at  
6 this time, and on the advice of counsel, assert their Fifth Amendment rights and  
7 elect not to further respond to this Interrogatory.

8 **INTERROGATORY NO. 6:**

9 For each Plaintiff or Counterclaim Defendant, identify all Tax Identification  
10 Numbers and National Provider Identifier numbers used for Claims submitted to  
11 United, including Claims for which you contend payment is due.

12 **AMENDED RESPONSE TO INTERROGATORY NO. 6:**

13 Individual Counterclaim Defendants object to this Interrogatory on the ground  
14 that it seeks information that is not within their possession, custody, or control in  
15 their individual capacities. In the event such information is determined to be within  
16 the possession, custody, or control of Individual Counterclaim Defendants,  
17 Individual Counterclaim Defendants specifically incorporate the Providers'  
18 objections to this Interrogatory, as modified by conferences of counsel. United will  
19 obtain all business information to which it is entitled from the Providers. Finally, at  
20 this time, and on the advice of counsel, assert their Fifth Amendment rights and  
21 elect not to further respond to this Interrogatory.

22 **INTERROGATORY NO. 7:**

23 For all Exhibit A Patients, identify the dates of service, service provided (CPT  
24 code), provider, and Tax Identification Number for all services for which you are  
25 seeking payment or damages.

26 **AMENDED RESPONSE TO INTERROGATORY NO. 7:**

27 Individual Counterclaim Defendants object to this Interrogatory on the ground  
28 that it seeks information that is not within their possession, custody, or control in

1 their individual capacities. In the event such information is determined to be within  
2 the possession, custody, or control of Individual Counterclaim Defendants,  
3 Individual Counterclaim Defendants specifically incorporate the Providers'  
4 objections to this Interrogatory, as modified by conferences of counsel. United will  
5 obtain all business information to which it is entitled from the Providers. Finally, at  
6 this time, and on the advice of counsel, assert their Fifth Amendment rights and  
7 elect not to further respond to this Interrogatory.

8 **INTERROGATORY NO. 8:**

9 For all Exhibit A Patients who have paid you directly for any services,  
10 including any copayment, coinsurance amount, deductible amount, or any other kind  
11 of payment, identify the patient's name, date of service, service provided (CPT  
12 code), physician or facility, billing provider, servicing provider, total amount  
13 charged, amount collected from the patient, and the date of the patient's payment.

14 **AMENDED RESPONSE TO INTERROGATORY NO. 8:**

15 Individual Counterclaim Defendants object to this Interrogatory on the ground  
16 that it seeks information that is not within their possession, custody, or control in  
17 their individual capacities. In the event such information is determined to be within  
18 the possession, custody, or control of Individual Counterclaim Defendants,  
19 Individual Counterclaim Defendants specifically incorporate the Providers'  
20 objections to this Interrogatory, as modified by conferences of counsel. United will  
21 obtain all business information to which it is entitled from the Providers. Finally, at  
22 this time, and on the advice of counsel, assert their Fifth Amendment rights and  
23 elect not to further respond to this Interrogatory.

24 **INTERROGATORY NO. 9:**

25 For each Corporate Counterclaim Defendant, identify your relationship,  
26 responsibilities, affiliation, and association with each of the other Plaintiffs or  
27 Counterclaim Defendants, including whether you receive any form of compensation  
28 from, or as a result of the operations of, such entities.

**AMENDED RESPONSE TO INTERROGATORY NO. 9:**

Individual Counterclaim Defendants object to this Interrogatory on the ground that it seeks information that is not within their possession, custody, or control in their individual capacities. In the event such information is determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Interrogatory, as modified by conferences of counsel. United will obtain all business information to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Interrogatory.

**INTERROGATORY NO. 10:**

Identify the name of any legal counsel, including in-house counsel and outside counsel, that you have retained to perform legal services from January 1, 2005 to the present and that has provided advice with respect to the corporate organization of any Plaintiff or Counterclaim Defendant.

**AMENDED RESPONSE TO INTERROGATORY NO. 10:**

Individual Counterclaim Defendants object to this Interrogatory on the following grounds. This Interrogatory seeks information protected by the attorney-client privilege and attorney work product doctrine. This Interrogatory seeks information that is not within Individual Counterclaim Defendants' possession, custody, or control in their individual capacities. In the event such information is determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Interrogatory, as modified by conferences of counsel. United will obtain all business information to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Interrogatory.



1 **INTERROGATORY NO. 11:**

2 Identify any other individual, not previously identified, who has knowledge of  
3 the events, communications, or documents out of which this Litigation arises.

4 **AMENDED RESPONSE TO INTERROGATORY NO. 11:**

5 Individual Counterclaim Defendants object to this Interrogatory on the ground  
6 that it seeks information that is not within their possession, custody, or control in  
7 their individual capacities. In the event such information is determined to be within  
8 the possession, custody, or control of Individual Counterclaim Defendants,  
9 Individual Counterclaim Defendants specifically incorporate the Providers'  
10 objections to this Interrogatory, as modified by conferences of counsel. United will  
11 obtain all business information to which it is entitled from the Providers. Finally, at  
12 this time, and on the advice of counsel, assert their Fifth Amendment rights and  
13 elect not to further respond to this Interrogatory.

14 **INTERROGATORY NO. 12:**

15 Identify the physical location of any documents responsive to United's First  
16 Requests for Production of Documents.

17 **AMENDED RESPONSE TO INTERROGATORY NO. 12:**

18 Individual Counterclaim Defendants object to this Interrogatory on the ground  
19 that it seeks information that is not within their possession, custody, or control in  
20 their individual capacities. In the event such information is determined to be within  
21 the possession, custody, or control of Individual Counterclaim Defendants,  
22 Individual Counterclaim Defendants specifically incorporate the Providers'  
23 objections to this Interrogatory, as modified by conferences of counsel. United will  
24 obtain all business information to which it is entitled from the Providers. Finally, at  
25 this time, and on the advice of counsel, assert their Fifth Amendment rights and  
26 elect not to further respond to this Interrogatory.

1 **INTERROGATORY NO. 13:**

2 Identify the factual basis of your claim for damages, including the amount  
3 sought and basis thereof.

4 **AMENDED RESPONSE TO INTERROGATORY NO. 13:**

5 This Interrogatory does not apply to Individual Counterclaim Defendants  
6 because they are not Plaintiffs in this action and therefore do not have any claim for  
7 damages in this action in their individual capacities.

8 **INTERROGATORY NO. 14:**

9 If you responded to any of United's Requests for Admissions with anything  
10 less than an unqualified "admit," provide the factual basis for your objection or  
11 denial.

12 **AMENDED RESPONSE TO INTERROGATORY NO. 14:**

13 At this time, and on the advice of counsel, Individual Counterclaim  
14 Defendants assert their Fifth Amendment rights and elect not to further respond to  
15 this Interrogatory.

16 **INTERROGATORY NO. 15:**

17 Identify the case name, case number, and the venue of each legal proceeding  
18 in which you have appeared as a party, either as plaintiff, defendant, claimant,  
19 petitioner, respondent, intervenor, or other third party, since January 1, 2008. This  
20 request includes all civil, criminal, arbitration, and administrative proceedings.

21 **AMENDED RESPONSE TO INTERROGATORY NO. 15:**

22 Individual Counterclaim Defendants object to this Interrogatory on the ground  
23 that it is not reasonably calculated to lead to discoverable evidence relating to any  
24 patient claim at issue in this action and, at this time, and on the advice of counsel,  
25 assert their Fifth Amendment rights and elect not to further respond to this  
26 Interrogatory.

1 Dated: July 2, 2015

2 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

3  
4 By



5 BARBARA E. TAYLOR

6 Attorneys for Individual Counterclaim

7 Defendants Michael Omid, M.D.

8 and Julian Omid

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 333 South Hope Street, 43rd Floor, Los Angeles, CA 90071-1422.

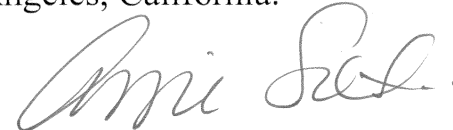
On July 2, 2015, I served true copies of the following document(s) described as **MICHAEL OMIDI, M.D. AND JULIAN OMIDI'S AMENDED RESPONSE TO DEFENDANTS'/COUNTERCLAIM PLAINTIFFS' FIRST SET OF INTERROGATORIES TO PLAINTIFFS/COUNTERCLAIM DEFENDANTS** on the interested parties in this action as follows:

**See Attached Service List**

☒ **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 2, 2015, at Los Angeles, California.



Angie Sotelo



**SERVICE LIST**

Bryan Westerfeld  
Nicole E. Wursher  
WALRAVEN & WESTERFELD LLP  
101 Enterprise, Suite 350  
Aliso Viejo, CA 92636  
Tel. (949) 215-1997  
Fax: (949) 215-1999  
Email: bwesterfeld@calemployerlaw.com  
Email: nwurscher@calemployerlaw.com

*Attorneys for Defendant UnitedHealth  
Group, Inc. and  
Defendants/Counterclaim Plaintiffs  
United Healthcare Services, Inc.,  
United Healthcare Insurance Company;  
and OptumInsight, Inc.*

R.J. Zayed  
Stephen P. Lucke  
DORSEY & WHITNEY LLP  
50 South Sixth Street, Suite 1500  
Minneapolis, MN 55402  
Tel: (612) 340-2600  
Fax: (612) 340-2868  
Email: zayed.rj@dorsey.com  
Email: lucke.steve@dorsev.com

*Attorneys for Defendant UnitedHealth  
Group, Inc. and  
Defendants/Counterclaim Plaintiffs  
United Healthcare Services, Inc.,  
United Healthcare Insurance Company;  
and OptumInsight, Inc.*

Daron L. Tooch  
Eric D. Chan  
Katherine M. Dru  
HOOPER, LUNDY & BOOKMAN, P.C.  
1875 Century Park East, Suite 1600  
Los Angeles, CA 90067  
Tel: (310) 551-8111  
Fax: (310) 551-8181  
Email: dtooch@health-law.com  
Email: echan@health-law.com  
Email: kdru@health-law.com

*Attorneys for Plaintiff and Counter-  
Defendant Providers*

**EXHIBIT 2**

**DECLARATION OF MICHAEL ROWE**

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
A Limited Liability Partnership  
2 Including Professional Corporations  
BRYAN D. DALY, Cal. Bar No. 117901  
3 bdaly@sheppardmullin.com  
CHARLES L. KREINDLER, Cal. Bar No. 119933  
4 ckreindler@sheppardmullin.com  
BARBARA E. TAYLOR, Cal. Bar No. 166374  
5 btaylor@sheppardmullin.com  
333 South Hope Street, 43<sup>rd</sup> Floor  
6 Los Angeles, California 90071-1422  
Telephone: 213.620.1780  
7 Facsimile: 213.620.1398

8 Attorneys for Individual Counterclaim  
Defendants Michael Omid, M.D. and  
9 Julian Omid

10 UNITED STATES DISTRICT COURT

11 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

12 ALMONT AMBULATORY  
13 SURGERY CENTER, LLC, a  
California limited liability company, et  
14 al.,

15 Plaintiffs,

16 v.

17 UNITEDHEALTH GROUP, INC.;  
UNITED HEALTHCARE SERVICES,  
18 INC., UNITED HEALTHCARE  
INSURANCE COMPANY;  
19 OPTUMINSIGHT, INC., and DOES 1  
through 20,

20 Defendants.

21 UNITED HEALTHCARE SERVICES,  
INC., UNITED HEALTHCARE  
22 INSURANCE COMPANY;  
23 OPTUMINSIGHT, INC.,

24 Counterclaim Plaintiffs,

25 v.

26 ALMONT AMBULATORY  
SURGERY CENTER, LLC, a  
27 California limited liability company; et  
al.,

28 Counterclaim Defendants.

Case No. 2:14-cv-03053-MWF(VBKx)  
Honorable Michael W. Fitzgerald

**MICHAEL OMIDI, M.D. AND  
JULIAN OMIDI'S AMENDED  
RESPONSE TO  
DEFENDANTS'/COUNTERCLAIM  
PLAINTIFFS' FIRST REQUEST  
FOR DOCUMENTS**

Complaint Filed: March 21, 2014

Trial Date: None Set

PROPOUNDING PARTY: DEFENDANTS/COUNTERCLAIM PLAINTIFFS  
("UNITED")

RESPONDING PARTY: INDIVIDUAL COUNTERCLAIM DEFENDANTS  
MICHAEL OMIDI, M.D. and JULIAN OMIDI

SET NO.: ONE

**RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS**

**PRELIMINARY STATEMENT**

In light of the Court's ruling on Counterclaim Defendants' Motions to Dismiss the First Amended Counterclaim, filed on February 12, 2015, Individual Counterclaim Defendants Michael Omidi, M.D. and Julian Omidi hereby amend their Response to United's First Set of Interrogatories to Plaintiffs/Counterclaim Defendants.

Individual Counterclaim Defendants hereby incorporate all General Objections and Specific Objections of Plaintiffs and Counter-Defendants Almont Ambulatory Surgery Center, LLC, et al., i.e., the "Providers," as modified by conferences of counsel.

**REQUEST FOR PRODUCTION NO. 1:**

Produce an excel [sic] or similar spreadsheet listing (1) all claims submitted by you to United for payment with respect to all patients referred to in (a) the Complaint, (b) the Amended Complaint filed in Case No. 2:14-cv-02139, (c) Plaintiffs' Master UHC Spreadsheet for Production (produced to United on July 3, 2013), or (d) Appendix I to United's First Amended Counterclaim, and (2) all amounts you have received, from any source, including patients, as partial or full payment with respect to such patient claims. Such spreadsheet shall include, at a minimum, the following fields for each amount you seek for services provided: (a) patient's last name, (b) patient's first name, (c) the date of service, (d) the CPT or other procedure code, (e) the billed charge, (f) the amount paid, (g) the provider's name, (h) the provider's tax identification number, (i) if known, the name of the group plan under which the patient is or may be covered, (j) if known, whether the



1 group plan is self-funded or fully insured, and (k) date payment received by or on  
2 behalf of Plaintiffs and source of payment, i.e., United, other insurer, or patient.

3 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

4 Individual Counterclaim Defendants object to this Request on the following  
5 grounds. This Request seeks to discover documents that, to the extent they exist, are  
6 not within Individual Counterclaim Defendants' possession, custody, or control in  
7 their individual capacities. In the event such documents are determined to be within  
8 Individual Counterclaim Defendants' possession, custody, or control, Individual  
9 Counterclaim Defendants specifically incorporate the Providers' objections and  
10 response to this Request, as modified by conferences of counsel. United will obtain  
11 all business records to which it is entitled from the Providers. Finally, at this time,  
12 and on the advice of counsel, Individual Counterclaim Defendants assert their Fifth  
13 Amendment rights and elect not to further respond to this Request.

14 **REQUEST FOR PRODUCTION NO. 2:**

15 For each of the claims listed on Exhibit A, produce all documents and  
16 communications relating to such claims, including but not limited to:

- 17 (a) Billing Records;  
18 (b) Medical Records;  
19 (c) Claim records, including copies of the claim forms Plaintiffs submitted  
20 to United (HCFA 1500, CMS 1500, UB-92, UB-04 etc);  
21 (d) Scheduling records;  
22 (e) Patient sign-in logs;  
23 (f) Benefits or coverage information;  
24 (g) Requests for authorization or approval for services;  
25 (h) Patient assignments, patient authorizations or other patient records;  
26 (i) Correspondence with Exhibit A patients, United or other  
27 insurers/payers, including all correspondence relating to appeals of denied claims;  
28 (j) E-mail;

1 (k) Call recordings, call transcripts, and call notes, including notes of calls  
2 in the database or computer system, as alleged in Paragraph 124 of the Complaint;  
3 and

4 (l) Documents reflecting any settlement or compromise of any dispute  
5 relating to such claims.

6 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

7 Individual Counterclaim Defendants object to this Request on the ground that  
8 it seeks documents that, to the extent they exist, are not within their possession,  
9 custody, or control in their individual capacities. In the event such documents are  
10 determined to be within the possession, custody, or control of Individual  
11 Counterclaim Defendants, Individual Counterclaim Defendants specifically  
12 incorporate the Providers' objections to this Request, as modified by conferences of  
13 counsel. United will obtain all business records to which it is entitled from the  
14 Providers. Finally, at this time, and on the advice of counsel, assert their Fifth  
15 Amendment rights and elect not to further respond to this Request.

16 **REQUEST FOR PRODUCTION NO. 3:**

17 Produce Billing Records sufficient to show all amounts paid by any United  
18 Member to any Plaintiff or Counterclaim Defendant, to the extent this information is  
19 not produced in response to Request for Production No. 1.

20 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

21 Individual Counterclaim Defendants object to this Request on the ground that  
22 it seeks documents that, to the extent they exist, are not within their possession,  
23 custody, or control in their individual capacities. In the event such documents are  
24 determined to be within the possession, custody, or control of Individual  
25 Counterclaim Defendants, Individual Counterclaim Defendants specifically  
26 incorporate the Providers' objections to this Request, as modified by conferences of  
27 counsel. United will obtain all business records to which it is entitled from the  
28

Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 4:**

Produce all documents reflecting or discussing the organizational structure of any Plaintiff or Corporate Counterclaim Defendant, including those that identify (i) the organization, hierarchy, management, or control of employees or independent contractors, (ii) the organization or hierarchy of executive and/or management personnel, (iii) the relationship between and among Plaintiffs/Counterclaim Defendants, and (iv) the ownership, membership, or control of Plaintiffs / Counterclaim Defendants.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

Individual Counterclaim Defendants object to this Request on the ground that it seeks documents that, to the extent they exist, are not within their possession, custody, or control in their individual capacities. In the event such documents are determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 5:**

Produce all agreements or contracts (employment, independent contractor, or otherwise), payroll records, or other records reflecting or addressing the terms of employment, responsibilities, duties, employment status, and relationship, between Counterclaim Defendants and any of the following individuals:

- a. Maureen Jaroscak
- b. Robert Silverman
- c. Elliot Alpert

- d. Cindy Omid
- e. Thomas Cloud
- f. Charles Klasky
- g. Robert Macatangay
- h. Araminta Salazar
- i. Ryan Stanton
- j. Shawn Pezeshk
- k. Alexander Weisse
- l. Maria Abaca
- m. Yesenia F.
- n. Levi Green
- o. Kimberly Fortier
- p. Dr. Atul Madan
- q. Dr. Michael Sedrak
- r. Dr. Lee Au
- s. Dr. Julius Gee

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

Individual Counterclaim Defendants object to this Request on the ground that it seeks documents that, to the extent they exist, are not within their possession, custody, or control in their individual capacities. In the event such documents are determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.



**REQUEST FOR PRODUCTION NO. 6:**

Produce all documents reflecting or referring to the creation of the Corporate Counterclaim Defendants, including filings with state entities related to the creation of Corporate Counterclaim Defendants and documents showing the members or agents of those entities.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

Individual Counterclaim Defendants object to this Request on the ground that it seeks documents that, to the extent they exist, are not within their possession, custody, or control in their individual capacities. In the event such documents are determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 7:**

Produce all communications between the Omidis and any of the following individuals related to the creation, incorporation, organization, or governance of any Corporate Counterclaim Defendant:

- a. Maureen Jaroscak
- b. Robert Silverman
- c. Elliot Alpert
- d. Cindy Omid
- e. Thomas Cloud
- f. Charles Klasky
- g. Robert Macatangay
- h. Araminta Salazar
- i. Ryan Stanton

- j. Shawn Pezeshk
- k. Alexander Weisse
- l. Maria Abaca
- m. Yesenia F.
- n. Levi Green
- o. Kimberly Fortier
- p. Dr. Atul Madan
- q. Dr. Michael Sedrak
- r. Dr. Lee Au
- s. Dr. Julius Gee

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

Individual Counterclaim Defendants object to this Request on the following grounds. United's definition of "the Omidis" (*See* Definitions No. 3) is improper, overbroad and unduly burdensome (seeks "all communications" between "the Omidis" and nineteen individuals regarding the "creation, incorporation, organization, or governance" of two dozen entities), and designed to invade the attorney-client privilege and attorney work product doctrine, as it is not limited to the Individual Counterclaim Defendants, but also includes "any of their attorneys, agents, assigns, or any persons or entities acting on their behalf." This Request seeks documents that are protected by the attorney-client privilege and attorney work product doctrine. Finally, at this time, and on the advice of counsel, Individual Counterclaim Defendants assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 8:**

Produce all agreements or contracts (employment, independent contractor, or otherwise) and payroll records between any Plaintiff or Counterclaim Defendant and any physician, nutritionist, psychologist, psychiatrist, nurse, or other medical or health care professional who provided health care services to any Exhibit A Patient.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

Individual Counterclaim Defendants object to this Request on the ground that it seeks documents that, to the extent they exist, are not within their possession, custody, or control in their individual capacities. In the event such documents are determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 9:**

Produce all documents reflecting, discussing, or addressing scripts, workflow, questionnaires, policies, procedures, practices, or training materials for employees, agents, or independent contractors associated with Plaintiffs or Counterclaim Defendants, including but not limited to call center personnel, administrators, billing personnel, staff, or health care professionals, including surgeons, physicians, doctors, nurses, psychologists, psychiatrists, therapists, nutritionists, social workers, and laboratory specialists.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

Individual Counterclaim Defendants object to this Request on the ground that it seeks documents that, to the extent they exist, are not within their possession, custody, or control in their individual capacities. In the event such documents are determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 10:**

Produce all documents reflecting, discussing, or addressing Plaintiffs or Counterclaim Defendants' marketing or advertising strategy, budget, expenditures, and/or success or conversion rates.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

Individual Counterclaim Defendants object to this Request on the ground that it seeks documents that, to the extent they exist, are not within their possession, custody, or control in their individual capacities. In the event such documents are determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 11:**

Produce all contracts, agreements, leases, or other documents reflecting any agreement or business relationship between, on the one hand, each Counterclaim Defendant, and, on the other hand, any other Counterclaim Defendant.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

Individual Counterclaim Defendants object to this Request on the ground that it seeks documents that, to the extent they exist, are not within their possession, custody, or control in their individual capacities. In the event such documents are determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.



1 **REQUEST FOR PRODUCTION NO. 12:**

2 Produce all tax returns for each Plaintiff and Counterclaim Defendant from  
3 2005 to present.

4 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

5 Individual Counterclaim Defendants object to this Request on the following  
6 grounds. This Request seeks documents that are not within Individual Counterclaim  
7 Defendants' possession, custody, or control in their individual capacities. In the  
8 event such documents are determined to be within Individual Counterclaim  
9 Defendants' possession, custody, or control, Individual Counterclaim Defendants  
10 specifically incorporate the Providers' objections to this Request, as modified by  
11 conferences of counsel. United will obtain all business records to which it is  
12 entitled from the Providers. This Request seeks highly sensitive financial  
13 information that is not reasonably calculated to lead to discoverable evidence  
14 relating to any claim, defense, or theory of liability in this action. Finally, at this  
15 time, and on the advice of counsel, Individual Counterclaim Defendants assert their  
16 Fifth Amendment rights and elect not to further respond to this Request.

17 **REQUEST FOR PRODUCTION NO. 13:**

18 Produce all tax returns for the Omidis from 2005 to present.

19 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

20 Individual Counterclaim Defendants object to this Request on the following  
21 grounds. United's definition of "the Omidis" (*See* Definitions No. 3) is improper  
22 and overbroad, as it is not limited to the Individual Counterclaim Defendants, but  
23 also includes "any of their attorneys, agents, assigns, or any persons or entities  
24 acting on their behalf." This Request seeks highly sensitive financial information  
25 that is not reasonably calculated to lead to discoverable evidence relating to any  
26 claim, defense, or theory of liability in this action. Finally, at this time, and on the  
27 advice of counsel, Individual Counterclaim Defendants assert their Fifth  
28 Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 14:**

Produce all documents reflecting any compensation, financial or otherwise, received by the Omidis from any Plaintiff or Corporate Counterclaim Defendant, including payroll or distribution records.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

Individual Counterclaim Defendants object to this Request on the following grounds. United's definition of "the Omidis" (*See* Definitions No. 3) is improper, overbroad, and designed to invade the attorney-client privileged and attorney work product doctrine, as it is not limited to the Individual Counterclaim Defendants, but also includes "any of their attorneys, agents, assigns, or any persons or entities acting on their behalf." This Request seeks highly sensitive financial information that is not reasonably calculated to lead to discoverable evidence relating to any claim, defense, or theory of liability in this action. Finally, at this time, and on the advice of counsel, Individual Counterclaim Defendants assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 15:**

Produce all documents reflecting or addressing the compensation, financial or otherwise, received by the following individuals from any Plaintiff or Counterclaim Defendant, including payroll or distribution records or records of loans, fees reportable on IRS Form No. 1099, consulting fees or other payments:

- a. Maureen Jaroscak
- b. Robert Silverman
- c. Elliot Alpert
- d. Cindy Omid
- e. Thomas Cloud
- f. Charles Klasky
- g. Robert Macatangay
- h. Araminta Salazar

- i. Ryan Stanton
- j. Shawn Pezeshk
- k. Alexander Weisse
- l. Maria Abaca
- m. Yesenia F.
- n. Levi Green
- o. Kimberly Fortier
- p. Dr. Atul Madan
- q. Dr. Michael Sedrak
- r. Dr. Lee Au
- s. Dr. Julius Gee

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

Individual Counterclaim Defendants object to this Request on the ground that it seeks documents that, to the extent they exist, are not within their possession, custody, or control in their individual capacities. In the event such documents are determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 16:**

Produce all documents, including communications from or to a financial institution, related to the opening, initiation, signature authority, or closing of any bank, savings, or investment account into which funds related to any United Member was deposited.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

Individual Counterclaim Defendants object to this Request on the ground that it seeks documents that, to the extent they exist, are not within their possession, custody, or control in their individual capacities. In the event such documents are determined to be within the possession, custody, or control of Individual Counterclaim Defendants, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 17:**

Produce all subpoenas, search warrants, civil investigative demands, or other informal demands issued to a Plaintiff or Counterclaim Defendant by any Government investigative or regulatory entity from 2005 to the present that relates to the allegations in the First Amended Counterclaim.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

Individual Counterclaim Defendants object to this Request on the following grounds. This Request seeks documents that, to the extent they exist, are not within Individual Counterclaim Defendants' possession, custody, or control in their individual capacities. In the event such documents are determined to be within Individual Counterclaim Defendants' possession, custody, or control, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. This Request is not reasonably calculated to lead to discoverable evidence relating to any patient claim at issue in this action. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.



**REQUEST FOR PRODUCTION NO. 18:**

Produce all documents produced by a Plaintiff or Counterclaim Defendant to any Government investigative or regulatory entity from 2005 to the present that relates to the allegations in the First Amended Counterclaim.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

Individual Counterclaim Defendants object to this Request on the following grounds. This Request seeks documents that, to the extent they exist, are not within Individual Counterclaim Defendants' possession, custody, or control in their individual capacities. In the event such documents are determined to be within Individual Counterclaim Defendants' possession, custody, or control, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. This Request is not reasonably calculated to lead to discoverable evidence relating to any patient claim at issue in this action. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 19:**

Produce all documents or communications between you and Allergan related to LapBand pricing.

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

Individual Counterclaim Defendants object to this Request on the following grounds. This Request seeks documents, to the extent they exist, that are not within Individual Counterclaim Defendants' possession, custody, or control in their individual capacities. In the event such documents are determined to be within Individual Counterclaim Defendants' possession, custody, or control, Individual Counterclaim Defendants specifically incorporate the Providers' objections to this Request, as modified by conferences of counsel. United will obtain all business records to which it is entitled from the Providers. This Request is not reasonably



1 calculated to lead to discoverable evidence relating to any patient claim at issue in  
2 this action. Finally, at this time, and on the advice of counsel, assert their Fifth  
3 Amendment rights and elect not to further respond to this Request.

4 **REQUEST FOR PRODUCTION NO. 20:**

5 Produce all documents relating to any claims or defenses asserted in this  
6 action.

7 **AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

8 Individual Counterclaim Defendants object to this Request on the following  
9 grounds. This Request seeks documents, to the extent they exist, that are not within  
10 Individual Counterclaim Defendants' possession, custody, or control in their  
11 individual capacities. In the event such documents are determined to be within  
12 Individual Counterclaim Defendants' possession, custody, or control, Individual  
13 Counterclaim Defendants specifically incorporate the Providers' objections to this  
14 Request, as modified by conferences of counsel. United will obtain all documents  
15 regarding the Providers' claims and defenses to which it is entitled from the  
16 Providers. This Request does not apply to the Individual Counterclaim Defendants  
17 to the extent it concerns "claims" because they are not Plaintiffs in this action and  
18 therefore do not have any claims in this action in their individual capacities. To the  
19 extent this Request concerns "defenses," the Second Amended Counterclaim is  
20 subject to the pending Motions to Dismiss and depending on the outcome of those  
21 Motions, defenses may not be relevant. Finally, at this time, and on the advice of  
22 counsel, assert their Fifth Amendment rights and elect not to further respond to this  
23 Request.

24 **REQUEST FOR PRODUCTION NO. 21:**

25 Produce all documents that You intend to introduce or rely upon at trial of  
26 this matter.  
27  
28

**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

Individual Counterclaim Defendants object to this Request on the following grounds. The Second Amended Counterclaim is subject to the pending Motions to Dismiss. If the Individual Counterclaim Defendants are dismissed, then this Request will not apply to Individual Counterclaim Defendants. This Request is premature, since the parties have not yet engaged in significant fact discovery and it is too early to identify all documents that Individual Counterclaim Defendants intend to "introduce or rely upon" at trial if they are not dismissed from this action. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

**REQUEST FOR PRODUCTION NO. 22:**

Produce all documents You referenced or relied upon in answering DEFENDANTS'/COUNTERCLAIM PLAINTIFFS' FIRST SET OF INTERROGATORIES TO COUNTERCLAIM DEFENDANTS.

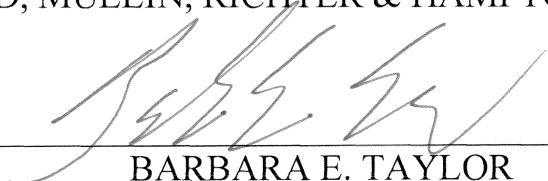
**AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

Individual Counterclaim Defendants object to this Request on the following grounds. This Request intrudes upon the attorney-client privilege and attorney work product doctrine. This Request is overbroad and unduly burdensome. Finally, at this time, and on the advice of counsel, assert their Fifth Amendment rights and elect not to further respond to this Request.

Dated: July 2, 2015

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By



BARBARA E. TAYLOR

Attorneys for Individual Counterclaim  
Defendants Michael Omid, M.D.  
and Julian Omid

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 At the time of service, I was over 18 years of age and **not a party to this**  
4 **action.** I am employed in the County of Los Angeles, State of California. My  
5 business address is 333 South Hope Street, 43rd Floor, Los Angeles, CA 90071-  
6 1422.

7 On July 2, 2015, I served true copies of the following document(s) described  
8 as **MICHAEL OMIDI, M.D. AND JULIAN OMIDI'S AMENDED RESPONSE**  
9 **TO DEFENDANTS'/COUNTERCLAIM PLAINTIFFS' FIRST REQUEST**  
10 **FOR DOCUMENTS** on the interested parties in this action as follows:

11 **See Attached Service List**

12 ☒ **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed  
13 to the persons at the addresses listed in the Service List and placed the envelope for  
14 collection and mailing, following our ordinary business practices. I am readily  
15 familiar with the firm's practice for collecting and processing correspondence for  
16 mailing. On the same day that the correspondence is placed for collection and  
17 mailing, it is deposited in the ordinary course of business with the United States  
18 Postal Service, in a sealed envelope with postage fully prepaid.

19 I declare under penalty of perjury under the laws of the State of California  
20 that the foregoing is true and correct.

21 Executed on July 2, 2015, at Los Angeles, California.

22 

23 \_\_\_\_\_  
24 Angie Sotelo  
25  
26  
27  
28

SERVICE LIST

Bryan Westerfeld  
Nicole E. Wursher  
WALRAVEN & WESTERFELD LLP  
101 Enterprise, Suite 350  
Aliso Viejo, CA 92636  
Tel. (949) 215-1997  
Fax: (949) 215-1999  
Email: bwesterfeld@calemployerlaw.com  
Email: nwurscher@calemployerlaw.com

*Attorneys for Defendant UnitedHealth  
Group, Inc. and  
Defendants/Counterclaim Plaintiffs  
United Healthcare Services, Inc.,  
United Healthcare Insurance Company;  
and OptumInsight, Inc.*

R.J. Zayed  
Stephen P. Lucke  
DORSEY & WHITNEY LLP  
50 South Sixth Street, Suite 1500  
Minneapolis, MN 55402  
Tel: (612) 340-2600  
Fax: (612) 340-2868  
Email: zayed.rj@dorsey.com  
Email: lucke.steve@dorsev.com

*Attorneys for Defendant UnitedHealth  
Group, Inc. and  
Defendants/Counterclaim Plaintiffs  
United Healthcare Services, Inc.,  
United Healthcare Insurance Company;  
and OptumInsight, Inc.*

Daron L. Toooh  
Eric D. Chan  
Katherine M. Dru  
HOOPER, LUNDY & BOOKMAN, P.C.  
1875 Century Park East, Suite 1600  
Los Angeles, CA 90067  
Tel: (310) 551-8111  
Fax: (310) 551-8181  
Email: dtoooh@health-law.com  
Email: echan@health-law.com  
Email: kdru@health-law.com

*Attorneys for Plaintiff and Counter-  
Defendant Providers*

**EXHIBIT 3**

**DECLARATION OF MICHAEL ROWE**



HOOPER, LUNDY & BOOKMAN, P.C.

ROBERT W. LUNDY, JR.  
PATRIC HOOPER  
LLOYD A. BOOKMAN  
W. BRADLEY TULLY  
JOHN R. HELLOW  
LAURENCE D. GETZOFF  
DAVID P. HENNINGER  
TODD E. SWANSON  
LINDA RANDLETT KOLLAR  
MARK E. REAGAN  
DARON L. TOOCH  
GLENN E. SOLOMON  
CRAIG J. CANNIZZO  
SCOTT J. KIEPEN  
MARK A. JOHNSON  
STEPHEN K. PHILLIPS  
HOPE R. LEVY-BIEHL  
JODI P. BERLIN  
STACIE K. NERONI  
CHARLES B. OPPENHEIM  
JORDAN B. KEVILLE  
ROBERT L. ROTH\*  
DEVIN M. SENELICK  
DAVID A. HATCH  
M. STEVEN LIPTON  
HARRY SHULMAN  
PAUL T. SMITH

HEALTH CARE LAWYERS & ADVISORS  
1875 CENTURY PARK EAST, SUITE 1600  
LOS ANGELES, CALIFORNIA 90067-2517  
TELEPHONE (310) 551-8111  
FACSIMILE (310) 551-8181  
WEB SITE: WWW.HEALTH-LAW.COM

OFFICES ALSO LOCATED IN  
SAN DIEGO  
SAN FRANCISCO  
WASHINGTON, D.C.

MATTHEW CLARK  
KARL A. SCHMITZ  
FELICIA Y. SZE  
JENNIFER A. HANSEN  
\*\*JAMES F. SEGROVES  
ROSS E. CAMPBELL  
\*\*\*\*WILLIAM B. ECK  
\*\*PRECIOUS MURCHISON GITTENS  
\*\*\*\*\*W. CLARK STANTON  
NINA ADATIA MARSDEN  
JOSEPH R. LAMAGNA  
TRACY A. JESSNER HALE  
AMANDA L. HAYES-KIBREAB  
MICHAEL S. HOUSKE  
MARY K. NORVELL  
KATHERINE M. DRU  
AMY M. JOSEPH  
KATRINA A. PAGONIS  
BEN A. DURIE  
ERIC D. CHAN  
SANDI KRUL  
STANTON J. STOCK  
YANYAN ZHOU  
JASMIN S. NIKU  
\*\*\*\*\*MICHAEL A. ZABLOCKI  
\*\*\*KELLY A. CARROLL  
RUBY W. WOOD  
SANSAN LIN  
BRIDGET A. GORDON  
JONATHAN H. SHIN

ALL ATTORNEYS ADMITTED IN CALIFORNIA  
AND NOT D.C. UNLESS NOTED

\* ADMITTED IN WASHINGTON, D.C.,  
MARYLAND & PENNSYLVANIA ONLY  
\*\* ADMITTED IN WASHINGTON, D.C.,  
& MARYLAND ONLY  
\*\*\* ADMITTED IN WASHINGTON, D.C.  
& PENNSYLVANIA ONLY  
\*\*\*\* ADMITTED IN WASHINGTON D.C.  
& FLORIDA ONLY  
\*\*\*\*\* OF COUNSEL

June 9, 2015

WRITER'S DIRECT DIAL NUMBER:  
(310) 551-8158

WRITER'S E-MAIL ADDRESS:  
ECHAN@HEALTH-LAW.COM

FILE NO. 82733.910

VIA EMAIL AND U.S. MAIL

Kirsten E. Schubert  
Dorsey & Whitney  
50 South Sixth Street, Suite 1500  
Minneapolis, MN 55402-1498

Re: **Almont, et al. v. United, et al., No. 14-cv-3053-MWF-VBKx**

Dear Kirsten:

I write briefly to respond to the points raised in your letter of June 2, 2015. We would be available to meet and confer with you on these issues this Friday, June 12, or a mutually agreeable time next week.

**I. Document Requests**

As you are well aware, the Providers' production of documents to you commenced back in February and has proceeded on a rolling basis, with the most recent production of nearly a thousand pages being made to you just two weeks ago. In contrast, United has not produced a single page or piece of information to the Providers in this lawsuit (an issue which we are separately addressing with you.) That being said, I will respond to and clarify a number of the demands made in your letter.

**TINs:** On February 27, 2015, we provided tax identification numbers and NPIs to you for the providers that billed United. You have not raised any additional issues with respect to these identification numbers.

HOOPER, LUNDY & BOOKMAN, P.C.

HEALTH CARE LAWYERS

Kirsten E. Schubert

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**Information about Patient Payments:** As we previously noted, due to the way our electronic records are kept, we can provide patient payment information only for individual patients that you identify. We are in the process of gathering information about the date and amount of payments made by patients who are (1) exemplar patients (e.g., United Members) in the Second Amended Counterclaim (SACC), and (2) the 11 members you identified on Appendix II. With respect to the latter, we have asked for the actual names, but have not yet received them. Please let us know when you will provide that information.

**Patient Medical and Billing Files:** Thank you for acknowledging receipt of the records for United Members 1 through 15. While we disagree that the patient files that you have received are somehow incomplete, we are happy to discuss specific categories of documents that you would like to request in addition to the ones we provided you on our call.

Also, per our prior discussions, we are currently in the process of reviewing the patient files for the overlap patients, and will produce those when our review is complete.

**Organizational Charts (RFP 4):** As you note, we have already promised to supplement our response to this Request, whether with documents, or an informal narrative of some kind. Our search and review for such documents is still ongoing.

**Contracts with Independent Contractors and Physicians:** We produced roughly 918 pages of agreements with doctors and other independent contractors, on May 27, 2015. Your letter, which was written after that date, does not appear to acknowledge that production. Our search and review of such documents is ongoing.

**Compensation Records:** With respect to payment and compensation records, including payroll records, we strongly disagree with your characterization of such documents as “highly relevant” to anything, much less to the purported “perpetrators of the fraud and conspiracy.” The Provider Counterclaim Defendants, like any healthcare providers, employed many people, whether as employees or independent contractors. The fact that the Providers paid their employees and independent contractors is honestly not probative of anything. In any case, the point is moot, because such records are no longer in our clients’ possession or control.

**Secretary of State Filings (RFP Nos. 6):** We will consider your request for documents responsive to RFP No. 6 if you agree to limit that extremely broad Request – which seeks “all documents reflecting or referring to the creation of” the Provider Counterclaim Defendants” – to filings made with California Secretary of State.

**Communications Regarding the Creation of Corporate Entities (RFP No. 7):** RFP No. 7 seeks “all communications” between “the Omidis” and nineteen nonparty individuals. Even if such communications are in the Providers’ possession and control, and setting aside the fact that Michael and Julian Omidis are represented by separate counsel, simply identifying the

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Kirsten E. Schubert

June 9, 2015

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communications sought cannot be done until the parties develop and execute protocols relating to e-mail, which they have not yet begun. Certainly, United has not produced any of e-mails responsive to our document requests (or any documents whatsoever, for that matter). We also note that this request appears to be unnecessary and irrelevant in light of the information sought by RFP No. 6.

**RFPs Nos. 12, 14, 15, 17, 18, 19:** As I noted in my February 18, 2015 letter, the Providers have objected to these particular requests on numerous grounds not relating to “alter ego.” For instance, the Providers’ tax returns (RFP No. 12) are not relevant to United’s ERISA or state law claims; and the Providers have already agreed to supplement their response to RFP No. 4, dealing with the organizational charts.

Likewise, information about supposed payments to the Omid brothers (RFP No. 15) are irrelevant to the issue of how any purported fraud on United was carried out. And for the reasons set forth in my February letter, information requested by or provided to the government (RFPs Nos. 17 and 18) is irrelevant to this private civil dispute about money.

**RFPs Nos. 9, 10, 11 and 16:** We are still investigating as to the status of whether documents exist that are responsive to these requests and are in our possession and control, and will get back to you.

## **II. Interrogatories**

We are still working on supplementing the interrogatory responses that we previously agreed to supplement. Please let us know if there are any responses in particular that you would like us to prioritize.

We are reviewing your other requests to reconsider our objections to specific Interrogatories. However, we would ask that United review our current and future document production first.

With respect to Interrogatory No. 12, we reiterate that we are willing to identify the physical location of documents to the extent they are within our possession and control. We believe we have no obligation to identify responsive documents that are not in our possession or control, especially if they are equally as available to United as they are to the Providers.

Also, we continue to believe that Interrogatory 13 is premature. In view of our Complaint and Initial Disclosures in this case, why do you need us to reiterate the factual basis for our claim for damages?

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Kirsten E. Schubert

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**III. E-mail Collection and Production**

We are willing to discuss a mutual exchange of custodial e-mail information at the appropriate time. We are happy to discuss this with you further.

**IV. Confidentiality Designations**

Thank you for the explanation regarding the origin of the puzzling “TPS” Bates prefix that was assigned to the documents for many of the third parties. Unfortunately, it still does not explain which third parties produced which documents. Moreover, your own requests for de-designation confirm that the “TPS” documents appear to originate from numerous sources, including highly sensitive and nonpublic sources, which absolutely warrant higher confidentiality designations. That being said, we are willing to revisit certain of our confidentiality designations. We will respond to you on this issue under separate cover.

**V. Conclusion**

Please let me know when you would like to discuss any these issues.

Very truly yours,



Eric D. Chan